

**THE INDIAN HEALTH CARE IMPROVEMENT REAUTHORIZATION AND
EXTENSION ACT OF 2009**

DRAFT SECTION-BY-SECTION SUMMARY

October 13, 2009

This legislation has three major purposes: 1) reauthorize and modernize the Indian Health Care Improvement Act (IHCIA), 2) reform the Indian health care system, and (3) add Indian health-specific provisions to the Social Security Act.

The health care services for American Indian/Alaska Natives (AI/AN) are provided through the Indian Health Service (IHS), tribally-operated health care programs or via urban Indian health care centers. The IHS, an agency within the Department of Health and Human Services (HHS), provides a comprehensive health care delivery system serving approximately 1.9 million AI/ANs living on or near reservations in 35 states.

On July 7, 2009, Chairman Byron L. Dorgan released a concept paper entitled, "*Reforming the Indian Health Care System.*" Many comments and recommendations were submitted to the Committee on Indian Affairs in response to the concept paper. Additionally, Committee staff met with tribes, tribal organizations and urban Indian organizations to discuss the concepts. The comments and recommendations have been utilized as the basis for development of the bill. Below is a section-by-section summary.

**INDIAN HEALTH CARE IMPROVEMENT REAUTHORIZATION AND
EXTENSION**

**TITLE I – INDIAN HEALTH CARE IMPROVEMENT ACT REAUTHORIZATION
AND AMENDMENTS**

Section 101. Reauthorization: Permanently reauthorizes the Indian Health Care Improvement Act.

Section 102. Findings: Provides a description of the Federal Government's trust responsibility to provide health care to AI/ANs.

Section 103. Declaration: Reaffirms that the national Indian health policy is to assure the highest possible health status for AI/ANs, and articulates the

policy of ensuring maximum Indian participation in the direction of health care services.

Section 104. Definitions: Provides necessary and applicable definitions of key terms used in the bill.

SUBTITLE A – Indian Health Manpower

Section 111. Community Health Aide Program. Continues the authority for operation of the community health aide program in Alaska through which non-physician practitioners are trained and certified to deliver basic health care, particularly in remote Indian communities. Building on the success of the Alaska program, this section would authorize development of CHA programs for tribes in the lower 48 states.

Section 112. Health professional chronic shortage demonstration program. Allows Indian health programs to offer practical experience to medical students. Provides training and support for alternative provider types, such as community health representatives and community health aides.

Section 113. Exemption from payment of certain fees. Extends the exemption from Federal agency licensing fees available to the Public Health Service Commission Corps to employees of tribal health programs and urban Indian organizations.

SUBTITLE B – Health Services

Section 121. Other authority for provision of services; Shared Services for Long-term Care: Authorizes the sharing of facilities and staff between IHS and tribally-operated long-term care programs. Also, provides authorization for hospice care, assisted living, long-term care and home- and community-based care.

Section 122. Reimbursement from Certain Third Parties of Costs of Health Services: Under current law, tribally operated facilities are unable to recover the cost of care provided to beneficiaries injured by a third party. IHS operated facilities are able to recover costs from liable third parties. This provision would revise current law to extend the ability to recover costs from third parties to tribally operated facilities.

Section 123. Crediting of Reimbursements: Revises the current law provision for crediting reimbursements for services provided by a service unit of

the IHS, or a tribal or urban Indian organization program and identifies the Federal laws which authorize such reimbursements.

Section 124. Behavioral Health Training and Community Education

Programs: Extends the training and community education programs and study authorized in current law for mental health to all behavioral health services.

Section 125. Mammography and Other Cancer Screening: Applies national standards to mammography screenings, requires other cancer screenings that receive an A or B rating as recommended by the United States Preventative Service Task Force, and applies the Task Force's frequency and procedures standards to the IHS.

Section 126. Patient Travel Costs: Continues the authority for funds to be used for travel costs of patients receiving health care services provided either directly by IHS, under contract health care, or through a contract or compact. In addition, this section authorizes funds for qualified escorts and transportation by private vehicle (where no other transportation is available), specially equipped vehicle, ambulance or by other means required when air or motor vehicle transport is not available.

Section 127. Epidemiology Centers: Continues authority for operation and funding of tribal epidemiology centers and gives the centers status as public health authorities for purposes of the Health Insurance Portability and Accountability Act of 1996 in order for them to access data needed to perform their mission.

Section 128. Prevention, Control, and Elimination of Communicable and Infectious Diseases: Amends current law by (1) expanding the communicable diseases from tuberculosis to other communicable and infectious diseases; (2) encouraging, rather than requiring, that entities funded under this section coordinate with the Centers for Disease Control and state and local health agencies; and (3) eliminating provisions of current law which would reduce the grant amount for expenses incurred by the federal government or for supplies or equipment furnished to the grant recipient.

Section 129. Methods to increase clinician recruitment and retention: Exempts a health care professional employed by a tribally operated health program from state licensing requirements if the professional is licensed in any state, as is the case with IHS health care professionals. Exempts IHS scholarships from taxation.

Section 130. Office of Indian Men’s and Indian Women’s Health:

Establishes within the IHS an Office of Indian Men’s Health to complement the Office of Indian Women’s Health that exists in current law.

Section 131. Contract health service disbursement formula: Requires the IHS to undertake a rulemaking proceeding – using negotiated rule-making procedures – to establish a distribution formula for the Contract Health Services program within the IHS.

SUBTITLE C – Health Facilities

Section 141. Indian Health Care Delivery Demonstration Projects:

Authorizes the development of new health programs offering care outside of regular clinic operational hours and/or in alternative settings, including through telehealth.

Section 142. Tribal Management of Federally Owned Quarters: Allows tribes and tribal organizations that operate a health facility and Federally-owned quarters associated with such facility under the Indian Self-Determination and Education Assistance Act to set rental rates and collect rents from occupants of the quarters.

Section 143. Other Funding, Equipment and Supplies for Facilities:

Allows for the transfer of funds, equipment or other supplies from any source, including federal or state agencies, to HHS for use in construction or operation of Indian health care facilities.

Section 144. Indian Country Modular Component Facilities

Demonstration Program: Requires IHS to establish a demonstration program for construction of health care facilities using modular component construction.

Section 145. Mobile Health Stations Demonstration Program: Requires IHS to establish a demonstration program for consortia of two or more service units to access funding to purchase a mobile health station to provide specialty health care services such as dentistry, mammography and dialysis.

SUBTITLE D – Access to Health Services (Medicare/Medicaid/ Children’s Health Insurance Program)

Section 151. Treatment of payments under the Social Security Act health benefits programs: Updates current law regarding collection of reimbursements from Medicare, Medicaid and CHIP by Indian health facilities, and revises the procedures which allow a tribally-operated program to directly collect such reimbursements for the services it provides.

Section 152. Purchasing health care coverage: Allows tribes and tribal organizations to purchase health benefits coverage for IHS beneficiaries.

Section 153. Grants to and contracts with the Service, Indian tribes, tribal organizations, and urban Indian organizations: Updates current law authority for IHS to issue grants or contracts to tribes, tribal organizations and urban Indian organizations to conduct outreach to enroll eligible Indians in Social Security Act health benefit programs.

Section 154. Sharing arrangements with Federal Agencies: Authorizes IHS to enter into arrangements with the Department of Veterans Affairs and Department of Defense to share medical facilities and services. These arrangements could include IHS, tribal and tribal organization hospitals and clinics.

Section 155. Eligible Indian Veteran's services: Establishes procedures to facilitate the provision of health services to eligible Indian veterans by the IHS and Department of Veterans Affairs.

Section 156. Nondiscrimination under Federal health care programs: Provides that IHS, tribal and urban Indian organization programs shall be eligible for participation in any Federal health care program to the same extent as any other provider, if the Indian program meets the generally applicable State or other requirements for participation.

Section 157. Access to Federal insurance: Allows a tribe or tribal organization carrying out a program under the Indian Self-Determination and Education Assistance Act and an urban Indian organization carrying out a program under Title V of IHCA to purchase coverage for its employees from the Federal Employees Health Benefits Program.

Section 158. General Exceptions: Provides that special purpose insurance products (such as those that provide compensation to a victim of a disease) are not subject to IHCA Title IV provisions, so that a policy holder may receive any applicable cash benefits directly for time off-work, transportation, etc.

SUBTITLE E – Health Services for Urban Indians

Section 161. Requirement to Confer with Urban Indian Organizations:

Requires IHS to confer with urban Indian organizations in carrying out certain provisions of this Act.

Section 162. Expand Program Authority for Urban Indian Organizations:

Authorizes IHS to establish behavioral health or mental health training, drug abuse prevention programs, and communicable disease prevention programs for urban Indian organizations.

Section 163. Community Health Representatives: Authorizes the establishment of a Community Health Representative (CHR) program for urban Indian organizations to train and employ Indians to provide health care services.

SUBTITLE F – Organizational Improvements

Section 171. Establishment of the Indian Health Service as an Agency of the Public Health Service:

This section amends current law to enhance the duties, responsibilities, and authorities of the IHS Director, including the responsibility to facilitate advocacy and promote consultation on matters relating to Indian health within HHS.

Section 172. Office of Direct Service Tribes: Relocates the IHS Office of Direct Service Tribes from the program level to the immediate office of the Director for IHS.

Section 173. Nevada Area Office. Directs the Secretary to submit a plan to Congress to create a Nevada IHS Area Office, separating Indian health programs in the state of Nevada from the Phoenix Area of IHS.

SUBTITLE G – Behavioral Health Programs

Section 181. Behavioral Health Programs: This bill section rewrites IHCIA Title VII to encompass the broader focus of behavioral health as compared with current law's more narrow focus on substance abuse.

Subtitle A—General Programs

Section 701. Definitions: Provides necessary and applicable definitions.

Section 702. Behavioral Health Prevention and Treatment Services:

Describes the specific authorizations for a comprehensive continuum of behavioral health care to include community-based care, detoxification, hospitalization, intensive out-patient treatment, residential treatment, transitional living, emergency shelter, case management, and diagnostic services.

Section 703. Memoranda of Agreement with the Department of Interior:

Directs the IHS to enter into a memorandum of agreement (MOA) with the Secretary of the Interior to develop a comprehensive strategy for addressing Indian alcohol and substance abuse and mental health issues.

Section 704. Comprehensive Behavioral Health Prevention and

Treatment Program: Directs the IHS to establish comprehensive behavioral health, prevention and treatment programs for Indians.

Section 705. Mental Health Technician Program: Authorizes the establishment of a mental health technician program within IHS to train Indians as mental health technicians to provide basic community-based mental health care.

Section 706. Licensing Requirement for Mental Health Care Workers:

Prescribes mandatory licensing requirements for mental health workers and establishes protocols for oversight of mental health trainees.

Section 707. Indian Women Treatment Programs: Authorizes IHS grants to Indian health programs to develop and implement comprehensive behavioral health programs that specifically address the cultural, historical, social and child care needs of Indian women.

Section 708. Indian Youth Program: Authorizes the establishment of a program for acute detoxification and treatment for Indian youth, including behavioral health services and family involvement.

Section 709. Inpatient and Community-Based Mental Health Facilities

Design, Construction and Staffing: Authorizes the establishment, in each IHS area, of not less than one inpatient mental health care facility, or equivalent, to serve Indians with behavioral health problems.

Section 710. Training and Community Education: Instructs the HHS Secretary to work with the Interior Secretary to develop and implement or assist Indian tribes and organizations in establishing a community education

and involvement program to educate tribal leaders, judges, law enforcement personnel, and health and education boards about community behavioral health issues.

Section 711. Behavioral Health Program: Allows IHS to make grants to Indian health programs to establish innovative community-based behavioral health services to Indians. This will be a competitive grant based program.

Section 712. Fetal Alcohol Spectrum Disorders Programs: Authorizes the establishment of a fetal alcohol spectrum disorders program to train providers to identify and treat pregnant women at high risk of birthing a child with fetal alcohol spectrum disorders and children born with alcohol related disorders.

Section 713. Child Sexual Abuse and Prevention Treatment Programs: Authorizes the establishment of a culturally appropriate program, in each IHS area, to treat victims of child abuse and perpetrators of abuse in Indian households.

Section 714. Domestic and Sexual Violence Prevention and Treatment: Authorizes the establishment of a culturally appropriate program, in each IHS area, to prevent and treat Indian victims of domestic and sexual violence and perpetrators of domestic and sexual violence in Indian households.

Section 715. Behavioral Health Research: Authorizes IHS to make grants to Indian and non-Indian entities to perform research on Indian behavioral health issues, including the causes of Indian youth suicide.

Subtitle B—Indian Youth Suicide Prevention

Section 721. Findings and Purpose: Sets out Congressional findings on the high prevalence of suicide among Indian youth and establishes a framework for addressing this critical situation.

Section 722. Definitions: Includes necessary and applicable definitions, including telemental health.

Section 723. Indian Youth Telemental Health Demonstration Project: Authorizes the IHS to carry out a demonstration project for telemental health services targeted to Indian youth suicide prevention. The demonstration project will award up to five grants, for four years each, to tribes and tribal organizations.

Section 724. Substance Abuse and Mental Health Services Administration Grants: Enhances the provision of mental health care services for Indian youth provided through SAMHSA by removing barriers that currently prevent Indian Tribes and tribal organizations from applying for SAMHSA grants.

Section 725. Use of Predoctoral Psychology and Psychiatry Interns: Encourages Indian tribes, tribal organizations and other mental health care providers serving Indian Country to utilize pre-doctoral psychology and psychiatry interns. Indian Country faces extreme shortages of mental health professionals and this provision will help increase the number of patients accessing care and serve as a recruitment tool for psychologists and psychiatrists.

Section 726. Indian Youth Life Skills Development Demonstration Program: Authorizes a demonstration grant program through the Substance Abuse and Mental Health Services Administration to provide grants to tribes and tribal organizations to provide culturally compatible, school-based suicide prevention curriculum to strengthen Native American teen “life skills”.

SUBTITLE H – Miscellaneous

Section 191. Confidentiality of Medical Quality Assurance Records; qualified immunity for participants: Allows for peer reviews to be conducted within Indian health programs without compromising confidentiality of medical records.

Section 192. Arizona, North Dakota and South Dakota as Contract Health Service Delivery Areas; eligibility of California Indians. Continues current law authority to make Arizona a permanent contract health service delivery area; and establishes a single contract health services delivery area consisting of the states of North Dakota and South Dakota for the purposes of providing contract health care services to members of Indian tribes located in those states; and updates the current law provision for services to California Indians.

Section 193. Methods to increase access to professionals of certain corps. Facilitates access to National Health Service Corps personnel by Indian health programs.

Section 194. Health Services for ineligible persons. Provides that IHS-operated and tribally-operated programs may provide health care services to non-IHS eligible beneficiaries so long as there is no diminution in services to

IHS eligible beneficiaries, and makes non-beneficiaries liable for payment for such services. Clarifies that such services are subject to terms and conditions of ISDEAA contracts and compacts.

Section 195. Annual Budget Submission: Requires that dollar amounts to cover medical inflation and population growth be included as a part of the President's IHS budget submission to Congress beginning in fiscal year 2011.

TITLE II – AMENDMENTS TO OTHER ACTS

Section 201. Solicitation of Proposals for Safe Harbors under the Social Security Act for Facilities of Indian Health Programs and Urban Indian Organizations: Directs the Secretary, acting through the Office of the Inspector General, to publish a notice soliciting a proposal on the development of safe harbors for Indian health programs and urban Indian organizations.

Section 202. Annual Report regarding Indians served by health benefits programs under Social Security Act: Requires the Centers Medicare and Medicaid Services (CMS) to submit an annual report to Congress regarding the enrollment and health status of Indians receiving items or services under Social Security Act health benefits programs.

Section 203. Including costs incurred by Service—“Medicare Rx Part D Fix”: Allows all prescriptions dispensed by IHS, tribal and urban Indian organization pharmacies to count toward the "true out-of-pocket-costs" (TrOOP) under the Medicare Part D program to enable Indian enrollees who utilize these pharmacies to qualify for catastrophic coverage under Part D.

Section 204. Medicare Amendments: Requires 100% payment to IHS and tribal programs for Medicare covered services provided to IHS eligible beneficiaries.

Section 205. Expansion of Payments under Medicare, Medicaid, and Children's Health Insurance Program: Allows IHS, tribal health programs and urban Indian programs greater access to payments under Social Security Act health benefit programs.

Section 206. Reauthorization of Native Hawaiian health care programs: Authorizes a straight reauthorization and extension of Native Hawaiian laws until 2019.